IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 18224 of 2004

Between:

Ch. Krishnamma, W/o. Venkat Rami Reddy,
Vemula-Village, Mandlamur-Mandal,
Prakasam District.

..... PETITIONER

AND

1 The Joint Collector, Prakasam District at Ongole.
2 The Revenue Divisional Officer, kandukur, Prakasam District.
3 The Mandal Revenue Officer, Mandlamur, Mandlamur-Mandal,
Prakasam District.
4 Nallagatla Lakshmi, D/o. Eswarachari,
Vemula-Village, Mundlamur Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be Pleased to pass orders, particularly one in the nature of writ of Mandamus, declaring the order of the 2nd respondent in Rc.No.F/1824/2004, dt. 3.8.2004 and the remand orders of the 1st respondent in D.Dis.(CS.2)/2878/2004, dt. 4.10.2004 as arbitrary, illegal, discriminatory, malafide, and violative of Articles 14 and 21 of the constitution of India, and consequently set-aside the same, and direct the respondents to continue the petitioner as Fair Price Shop Dealer of the Vemula-Village, and grant such other relief as this Hon'ble High Court may deem fit and proper.

Counsel for the Petitioner: MR.KASA JAGANMOHAN REDDY

Counsel for the Respondents 1 to 3: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

The petitioner is an authorized dealer of a fair price shop of Vemula Village, Mundlamur Mandal, Prakasam District. The authorization of the petitioner was suspended by the 2nd respondent-Revenue Divisional Officer, Mundlamur Mandal, Prakasam District, by order dated 03-08-2004, pending enquiry into the alleged irregularities in distribution of commodities. Against the said order, the petitioner preferred an appeal before the 1st respondent-Joint Collector, Prakasam District. The 1st respondent, while entertaining the appeal, rejected the application for stay filed by the petitioner. Aggrieved by the same, the petitioner filed W.P.No.14555 of 2004 before this Court. This Court while disposing the writ petition, by an order dated 17-08-2004, directed the 1st respondent to dispose of the appeal within a period of four weeks from the date of receipt of a copy of the said order. In pursuance thereof, the 1st respondent passed an order on 04-10-2004 remanding the matter to the 2nd respondent for detailed enquiry and to dispose of the same within a period of two weeks after giving reasonable opportunity of personal hearing to the petitioner. The said order is under challenge in this writ petition.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies, appearing on behalf of the respondents 1 to 3.

The learned counsel for the petitioner vehemently contends that on the basis of the same set of allegations i.e., the petitioner is guilty of diversion of PDS rice into black market, proceedings under Section 6A of the Essential Commodities Act have also been initiated in which the Joint Collector by order dated 7-9-2004 held that the lorry seized by the 3rd respondent at some distance from the petitioner's fair price shop

was found empty and even the owner of the lorry was held to be not guilty and therefore the allegation of the diversion of stocks or contravention of any control orders by the petitioner is false and without any basis. The learned Counsel submits that the action initiated against the petitioner is only at the instance of opposite political party and the fact that the 4th respondent herein who was appointed as a temporary dealer has filed a caveat even before the order of suspension was passed, itself shows that the alleged seizure was stage managed so as to falsely implicate the petitioner.

It is relevant to note that admittedly, the enquiry is still pending before the 2nd respondent. A Show Cause notice has been issued and the petitioner states that she has submitted an explanation. In the circumstances, it is for the 2nd respondent to go into the correctness of the allegations made against the petitioner and to record the findings after conducting the necessary enquiry on the basis of the material placed by both the parties to substantiate their respective pleas.

This Court, while exercising the jurisdiction under Article 226 of the Constitution of India, cannot make any roving enquiry into the disputed questions of fact and no findings can be recorded. Even the 1st respondent while considering the statutory appeal against the order of suspension pending enquiry is not required to enquire into the correctness of the allegations and the only question requires to be considered is whether the suspension of authorization pending enquiry is warranted in the facts and circumstances of the case. In the case on hand the respondent No.1 having regard to the nature of the allegations thought it fit that the matter requires enquiry and declined to interfere with the order of suspension. It is to be noted that the 1st respondent has also fixed a time limit for completing the enquiry and directed the 2nd respondent to dispose of the case within a period of two weeks after giving reasonable opportunity of personal hearing to the petitioner. I do not find any infirmity in the said order passed by the 1st respondent warranting interference by this Court.

Accordingly, the writ petition is dismissed. No costs.

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07-10-2004

sh/vs

To

1 The Joint Collector, Prakasam District at Ongole.
2 The Revenue Divisional Officer, kandukur, Prakasam District.
3 The Mandal Revenue Officer, Mundlamur, Mundlamur-Mandal,
Prakasam District.
4 2CCs to the G.P for Civil Supplies, High Court Buildings, Hyderabad (O.U.T).

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